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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,690	08/25/2003	Kathryn Thompson	TH0600	3275

7590

04/11/2005

Ingrid McTaggart  
534 SE 58th Avenue  
Portland, OR 97215

EXAMINER
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WOOD, KIMBERLY T

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 04/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/647,690

Applicant(s)

THOMPSON, KATHRYN

Examiner

Kimberly T. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-17, 21 and 22 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 11, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 4, 6-10 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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This is an office action for serial number 10/6477,690, entitled Artist's Easel, filed August 25, 2003.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18 rejected under 35 U.S.C. 102(b) as being anticipated by Tolegian 3,006,107. The following rejections are based on the subcombination of the easel alone. Tolegian discloses a vertical support means (18, 24, (part of 18 includes 28) and 10), a vertical translation means (36 and 37 and including 32 and 31), a horizontal support means (29 and 30).

Claims 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Rohlfing 1,699,544. Rohlfing discloses a vertical support means (41), a pulley weight track (between flanges of 41), a first and second pulley wheels tracks (outer surface of 41), a vertical translation means (90, 92, 83, and 89, see figure 2, 7, and 8) having a first and second pulley including rollers (90), weights (92), and wheels (69, 67), a

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horizontal support means (57 and 51), a floor bracket (33), a ceiling racket (47), a stabilizer plates (71), a brake bracket (near 76).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3, 5, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tolegian in view of Rohlfing 1,699,544 as discussed above. Tolegian discloses a first and second vertical support member/means (18), a first and second horizontal support members moved independently of one another (29 and 30), first and second wheels (32), a wheel track (28), a ceiling bracket (24), a floor bracket (12). Tolegian discloses all of the limitations of the claimed invention except for the first and second pulley. It would have been obvious to one having ordinary skill in the art to have made the vertical support members including first and second pulleys, stabilizer

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plates and the horizontal members extending into the vertical members as taught by Rohlfing for the purpose of providing a better means of moving the horizontal members up and down the vertical members resulting in a smooth transition between positions.

***Allowable Subject Matter***

Claims 12-17, 21, and 22 are allowed.

Claims 4, 6-10, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art does not disclose a first and second brake clamps that surrounds said first and second vertical support members and said first and second stabilizer plates respectively; a first pulley assembly includes first and second wheels positioned on opposite sides of said first horizontal support member, and an axle extending through said first and second wheels and said first horizontal support member; a third and fourth pulley assembly; a rail sleeve slidably mounted on said first horizontal support member and securing a first edge of an artist work piece.

***Response to Arguments***

Applicant's arguments filed December 28, 2004 have been fully considered but they are not persuasive.

In regards to the applicant's arguments that Tolegian no teaching or suggestion of a vertical translation means positioned within an "interior" of the vertical support means, this argument is hereby traversed. Tolegian clearly teaches a vertical translation (36 and 37 including wheels 31 and 32) means which are used for vertically translating a horizontal support means (29 and 30) on the interior of the vertical support means (18, 24, and 10). The vertical support means has a space between elements 18 which has been interpreted by the examiner as the interior (by definition "lying, occurring, or functioning within the limiting boundaries"; Merriam Webster's Collegiate Dictionary Tenth Edition) of the vertical support means/member. The wheels 32 which are included in the vertical translation means are received on the interior portion of a structure included as the vertical support means/member (28).

In regards to the applicant's arguments that Rohlfing does not disclose a vertical translation means positioned "within the interior" of the said vertical support means, this argument is hereby traversed. Rohlfing clearly teaches that the vertical translation means is positioned within said interior of the

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vertical support means since parts of the vertical translation means (90, 92, 83, and 89, see figure 2, 7, and 8) are within interior of the vertical support means/member. The applicant has not claimed that the structure for the vertical translation means in regards to claims 1-3, 5, 11, 18 and 19 are completely within the interior therefore, the limitation has been met by Rohlfing if only a portion of the structure is within the interior.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened

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statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

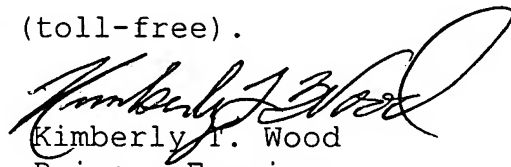
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly T. Wood whose telephone number is 571-272-6826. The examiner can normally be reached on Monday-Thursday 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 571-272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kimberly R. Wood  
Primary Examiner  
Art Unit 3632

April 4, 2005